



**STATE OF DELAWARE**  
**Child Death, Near Death and Stillbirth Commission**  
900 King Street  
Wilmington, DE 19801-3341

## **CAPTA<sup>1</sup> REPORT**

In the Matter of  
Tommy Waters  
Minor Child<sup>2</sup>

9-03-2008-00018

March 11, 2011

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<sup>1</sup> The federal Child Abuse Prevention and Treatment Act require the disclosure of facts and circumstances related to a child's near death or death. 42 U.S.C § 5106 a(b)(2)(A)(x). See also, 31 Del.C. § 323 (a).

<sup>2</sup> To protect the confidentiality of the family, case workers, and other child protection professionals, pseudonyms have been assigned.

## **Background and Acknowledgements**

The Child Death, Near Death, and Stillbirth Commission (“CDNDSC”) was statutorily created in 1995 after a pilot project showed the effectiveness of such a review process for preventing future child deaths. The mission of CDNDSC is to safeguard the health and safety of all Delaware children as set forth in 31 Del.C., Ch., 3.

Multi- disciplinary Review Panels meet monthly and conduct a retrospective review of the history and circumstances surrounding each child’s death or near death and determine whether system recommendations are necessary to prevent future deaths or near deaths. The process brings professionals and experts from a variety of disciplines together to conduct in- depth case reviews, create multi-faceted recommendations to improve systems and encourage interagency collaboration to end the mortality of children in Delaware.

## **Summary of Incident**

The case regarding Tommy Waters is considered a near death incident due to physical abuse perpetrated by the child’s father. At the time of the near death incident, Tommy was three months of age and residing in the home of his mother and father.

On the day of the near death incident, Tommy was brought into the emergency room by mother with complaints of vomiting, irritability, and abdominal distension. Upon examination by medical personnel Tommy was found to have a healing right lateral rib fracture to the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> ribs and a healing distal tibia fracture. Tommy was also noted to have facial bruising on his right cheek and a radiographically abnormal appearing left first metatarsal.<sup>3</sup> Tommy underwent colon resection with colostomy and was found to have peritonitis. He was admitted to the Pediatric Intensive Care Unit (PICU) where he was stabilized and received further care management. It was later determined that the rib fractures were between two and six weeks old and that the bowel injury had occurred within the past twenty four hours. Due to complication from Tommy’s injuries, Tommy struggled with recovery and spent almost a month in the hospital. Upon discharge, Tommy was placed in the care of his maternal grandmother who was granted guardianship by Family Court.

An urgent referral was received by the Division of Family Services’ Child Abuse and Neglect Report Line alleging the physical abuse of Tommy. The report was accepted and a collaborative investigation between law enforcement and the Division of Family Service commenced. Tommy’s parents initially stated that Tommy was placed in a baby swing that was knocked over by the family pit bull; however, this story was inconsistent with the injuries that Tommy had sustained. At this point in time, Tommy’s father obtained legal counsel and was no longer cooperative with the on-going investigation. It was determined that the person most likely to have caused the injuries to Tommy was his father. The basis for this conclusion stemmed from the fact that Tommy had only been under the care of his father twenty-four hours prior to admission to the hospital. Mother was not in the residence when the injuries could have occurred.

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<sup>3</sup> The abnormal metatarsal may have been a normal variant or old healing fracture.

The Division of Family Services substantiated Tommy's father for physical abuse/internal injury and blunt force trauma, level IV. The case was transferred to treatment for reunification purposes with Tommy's mother.

Father was initially arrested and charged with Assault by Abuse and Endangering the Welfare of a Child. Criminal prosecution resulted in Tommy's father pleading to Assault in the 2<sup>nd</sup> Degree and a no contact order was put in place between father and Tommy. Father was sentenced to 5 years Level V, suspended after 18 months for 18 months Level III.

### **System Recommendations**

Following the expedited and final review of the near death incident of Tommy, it was determined that all systems met reasonable standards of practice and therefore no system recommendations were put forth.